

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No. EB-02-TC-030
)	
Suburban Cable TV Co., Inc.)	CUID No. NJ0005 (Somers Point)
)	
Petition for Reconsideration)	

ORDER

Adopted: July 16, 2002

Released: July 17, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order, we consider a petition for reconsideration ("Petition") of Cable Services Bureau Order, DA 99-878 ("Prior Order"),² filed with the Federal Communications Commission ("Commission") by the above-referenced operator ("Operator").³ The Prior Order resolved complaints filed against the rates charged by Operator for its cable programming services tier ("CPST") in the community referenced above beginning May 15, 1994. In this Order we grant Operator's Petition and modify the Prior Order.

2. Under the provisions of the Communications Act⁴ that were in effect at the time the complaints were filed, the Commission is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")⁵ and the Commission's rules required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act"),⁶ and the Commission's rules implementing the legislation ("Interim Rules"),⁷ required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint. The filing of a valid complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.⁸ If the

¹ Effective March 25, 2002, the Commission transferred responsibility for resolving cable programming services tier rate complaints from the former Cable Services Bureau to the Enforcement Bureau. *See Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau and Other Organizational Changes*, FCC 02-10, 17 FCC Rcd 4672 (2002).

² *See In The Matter of Suburban Cable TV Co., Inc.*, DA 99-878, 14 FCC Rcd 7233 (CSB 1999).

³ The term "Operator" includes Operator's successors and predecessors in interest.

⁴ 47 U.S.C. §543(c) (1996).

⁵ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁷ *See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 5937 (1996).

Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.⁹

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.¹⁰ Operators may file an FCC Form 1210 to justify quarterly rate increases based on the addition and deletion of channels, changes in certain external costs and inflation.¹¹ Operators may justify their rates on an annual basis using an FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.¹² Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹³

4. In the Prior Order, the Cable Services Bureau reduced Line C2 (Number of Regulated Non-Broadcast Channels per tier) of Operator's FCC Form 1200 to reflect the number of non-broadcast channels shown on Operator's channel line-up card. In its Petition, Operator provides information that supports its original calculation of non-broadcast channels. Operator also provides support for its channel additions and for the implementation dates of its CPST rate increases. We are persuaded that Operator's calculations are accurate and we find Operator's argument to be compelling. Upon review of Operator's FCC Form 1200 and subsequent filings, taking into account the revision to Line C2, channel additions and implementation dates for Operator's CPST rate increases, we find Operator's actual CPST rates to be reasonable beginning May 15, 1994. Therefore, we modify the Prior Order to exclude any refund liability.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that the petition for reconsideration filed by Operator is GRANTED.

6. IT IS FURTHER ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that *In The Matter of Suburban Cable TV Co., Inc.*, DA 99-878, 14 FCC Rcd 7233 (CSB 1999) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

7. IT IS FURTHER ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that the CPST rates, charged by Operator in the community referenced above, beginning May 15, 1994, ARE REASONABLE.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon

⁸ See Section 76.956 of the Commission's rules, 47 C.F.R. § 76.956.

⁹ See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.

¹⁰ See Section 76.922 of the Commission's rules, 47 C.F.R. § 76.922.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Chief, Enforcement Bureau